*Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov*

ESTTA Tracking number: **ESTTA457914**

Filing date: **02/22/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

# Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

## Opposer Information

| | |
|---|---|
| Name | Villa de Odon S.A.C. |
| Granted to Date of previous extension | 02/22/2012 |
| Address | Santiago de Surco AvLa Encalada 197, Int. B<br>Lima,<br>PERU |

| | |
|---|---|
| Attorney information | S. Peter Ludwig<br>Fish & Richardson P.C.<br>P.O. Box 1022<br>Minneapolis, MN 55440-1022<br>UNITED STATES<br>tmdoctc@fr.com, svl@fr.com, kxm@fr.com, korzhin@fr.com, brenckman@fr.com Phone:212-765-5070 |

## Applicant Information

| | | | |
|---|---|---|---|
| Application No | 85266973 | Publication date | 10/25/2011 |
| Opposition Filing Date | 02/22/2012 | Opposition Period Ends | 02/22/2012 |
| Applicant | Genere Food Corp<br>100 Niantic Av<br>Providence, RI 02907<br>UNITED STATES | | |

## Goods/Services Affected by Opposition

Class 032.
All goods and services in the class are opposed, namely: Non-alcoholic fruit juice beverages; Non-alcoholic beverages, namely, carbonated beverages; Bottled water; Mineral water; Vegetable juices

## Grounds for Opposition

| | |
|---|---|
| Other | Article 7 of the Pan American Convention entitles the owner of a mark in Haiti to prevent another person from registering an interfering mark in the US. |

| | |
|---|---|
| Attachments | 28897-0009PP1NoticeOpposition.pdf ( 7 pages )(4251648 bytes )<br>28897-0009PP1Exhibits.pdf ( 29 pages )(4847087 bytes ) |

# Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|---|---|
| Signature | /SPL/ |
| Name | S. Peter Ludwig |
| Date | 02/22/2012 |

Attorney Docket No. 28847-0009PP1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | |
|---|---|
| VILLA DE ODON S.A.C.,<br><br>Opposer,<br><br>v.<br><br>GENERE FOOD CORP.,<br><br>Applicant. | In the matter of Serial No. 85/266,973<br>For the mark LA KOLA REAL<br>Published on October 25, 2011<br>Opposition No. _____ |

## NOTICE OF OPPOSITION

Villa de Odon S.A.C., a Peruvian corporation having a principal place of business at Av. La Encalada 197, Interior "B," Santiago de Surco, Lima, Peru, believes it will be damaged by registration of the mark shown in Application Serial No. 85/266,973 (the "Application") and hereby opposes the same. The grounds for opposition are as follows:

1. Villa de Odon S.A.C. ("Opposer" or "Villa de Odon") is a Peruvian soft drink company that produces and sells its well-known soft drinks throughout the world, under the KOLA REAL; KR KOLA REAL; and the KR KOLA REAL & Design marks depicted below (collectively, the "KOLA REAL soft drinks" and the "KOLA REAL Marks").


2. Opposer's KOLA REAL soft drinks were developed in the 1980s in the backyard of the Añaños family residence in Ayacucho, Peru. The Añaños family grew the company by introducing KOLA REAL soft drinks to the local market. Demand for KOLA REAL soft drinks became so high that, in 1984, Jorge Añaños and Jeri and Tania Alcázar founded Industrias San Miguel (the KOLA REAL soft drink distribution company) and opened the first KOLA REAL soft drink production facilities in 1987.

3. The success of the KOLA REAL soft drinks soon extended from Peru to other countries throughout Latin America and the world. By 2010, KOLA REAL soft drinks had a strong presence in countries including Chile, the Dominican Republic, and the Caribbean Islands. The KOLA REAL soft drink offerings have continued to grow as well, and flavors now include strawberry, orange, pineapple, grape, lime-lemon, "negra" (standard cola), and golden.

4. On November 3, 2004 and December 13, 2004, Opposer, through Jorge Añaños, applied to register the KOLA REAL (standard character) and KOLA REAL & Design marks in connection with "Carbonated soft drinks" in Class 32 (U.S. Ser. Nos. 78/510,414 and 78,531,467) in the United States Patent and Trademark Office. Copies of the TARR records for both applications are attached as Exhibit A. The U.S. applications became abandoned on December 19, 2005.

5. Nonetheless, Opposer continued to use and register the KOLA REAL Marks throughout the world in connection with its increasingly popular soft drinks.

6. For example, Opposer, through its predecessor in interest, filed App. No. 176-A to register the KOLA REAL (standard character) mark in the Republic of Haiti on January 5, 2005 in connection with non-alcoholic beverages in Class 32. The application matured to

registration on August 19, 2005 (Reg. No. 18 Reg. 148) (the "Registration"). Translated and un-translated copies of the Registration Certificate are attached as Exhibit B.

7. On February 3, 2011, Opposer's predecessor in interest, Industria San Miguel Del Caribe, transferred and assigned the Haitian Registration to Opposer Villa de Odon (the "Assignment"), on August 18th, 2011. The Assignment was recorded according to Haitian law in the Haitian Intellectual Property Office. A copy of this assignment is attached as Exhibit C. Therefore, Opposer owns the Registration, and the Registration is in full force and effect.

8. Opposer and its predecessors in interest have produced and sold KOLA REAL soft drinks under the KOLA REAL Marks in Peru, Chile, the Dominican Republic, Haiti and in other countries throughout the world continuously since at least the early 1980s.

9. Opposer has built up considerable recognition and goodwill in its valuable KOLA REAL Marks through over 30 years of worldwide use and promotion of the Marks.

10. Due to strong demand for Opposer's KOLA REAL soft drinks in the United States, Opposer plans to introduce, market, and sell KOLA REAL brand soft drinks to Americans in the United States. It has therefore filed applications for federal registration of the marks KR KOLA REAL (standard character) and KR KOLA REAL & Design for "non-alcoholic beverages, namely, carbonated beverages" in Class 32 (U.S. App. Ser. Nos. 85/544,193 and 85/544,196). Copies of the TARR Records for both applications are attached as Exhibit D.

11. In spite of Opposer's widespread worldwide use and promotion of its KOLA REAL Marks, on March 15, 2011, Genere Food Corp. ("Applicant") filed the Application to register LA KOLA REAL as a trademark in the United States for "non-alcoholic fruit juice beverages; non-alcoholic beverages, namely, carbonated beverages; bottled water; mineral water, vegetable juices" in Class 32, based on its alleged *bona fide* intent to use the mark in United

States commerce (App. Ser. No. 85/266,973). A copy of the TARR record for the Application is attached as Exhibit E.

12. On October 5, 2011, the Application was published for opposition.

13. On November 23, 2011, Opposer filed a timely request for a 90-day extension of time to oppose the Application. The Board granted the request and extended the time period for Opposer to file its Opposition until February 22, 2012.

14. Upon information and belief, Applicant sells soft drinks under the LA KOLA REAL mark in the United States, but has not filed a statement of use in connection with the Application.

15. Upon information and belief, the grant of registration to Applicant's LA KOLA REAL mark will prevent the registration of Opposer's pending applications for KR KOLA REAL standard character and KR KOLA REAL & Design for non-alcoholic carbonated beverages. Further, Applicant's registration of the LA KOLA REAL mark in connection with beverages is likely to cause consumer confusion with Opposer's intended use of its KOLA REAL Marks in connection with beverages. Opposer's success in marketing and selling its KOLA REAL soft drinks in the United States will be damaged and diminished if Applicant is permitted to register the LA KOLA REAL mark in the United States.

16. Applicant's LA KOLA REAL mark is an "interfering mark" under the General Inter-American Convention for Trademark and Commercial Protection of Washington, 1929, 46 Stat. 2907, also known as the Pan American Convention of 1929 (the "Pan American Convention"), which remains in force between Haiti and the United States. *See Treaties in Force* 2011, 385, available at http://www.state.gov/documents/organization/169274.pdf.

17. Article 7 of the Pan American Convention entitles the owner of a mark protected in Haiti to prevent another person from registering an interfering mark in the United States, upon proof that the person who is seeking to register the interfering mark in the United States had knowledge, prior to that person's use of the interfering mark, of the existence and continuous use of the mark upon goods of the same class, as follows:

> Any owner of a mark protected in one of the Contracting States in accordance with its domestic law, who may know that some other person is using or applying to register or deposit an interfering mark in any other of the Contracting States, shall have the right to oppose such use, registration or deposit, and shall have the right to employ all legal means, procedure or recourse provided in the country in which such interfering mark is being used or where its registration or deposit is being sought, and upon proof that the person who is using such mark, or applying to register or deposit it, had knowledge of the existence and continuous use in any of the Contracting States of the mark on which opposition is based upon goods of the same class, the opposer may claim for himself the preferential right to use such mark in the country where the opposition is made or priority to register or deposit it in such country, upon compliance with the requirements established by the domestic legislation in such country and by this Convention.

18. Upon information and belief, Applicant had knowledge of the existence and continuous use of Opposer's KOLA REAL Marks in connection with non-alcoholic carbonated beverages in at least one of the Pan American Convention Contracting States before Applicant filed its application to register LA KOLA REAL on March 15, 2011, and upon information and belief, before it used the LA KOLA REAL mark in the United States. Even a brief search of the USPTO trademark database would have revealed Opposer's abandoned App. Ser. Nos. 78/510,414 and 78/531,467, filed by Mr. Añaños for the KOLA REAL standard character and design marks in connection with "carbonated soft drinks" in Class 32. Further, even a cursory

Internet search would have revealed many references to Opposer's current worldwide use of the KOLA REAL Marks. Additionally, Applicant's soft drinks use a label that depicts the flag of the Dominican Republic and states "SABOR 100% DOMINICANO." Photographs of Applicant's soft drink labels are attached as Exhibit F. Assuming Applicant's soft drinks have a connection with the Dominican Republic, it would have been virtually impossible for Applicant *not* to have known about the KOLA REAL Marks, as Opposer's soft drinks sold under the KOLA REAL Marks are extremely popular in the Dominican Republic, and Opposer holds a significant share of the soft drink market in the Dominican Republic.

19. Applicant's mark is virtually identical to Opposer's mark. Applicant's LA KOLA REAL mark contains Opposer's entire KOLA REAL mark; the mere addition of the article LA in no way distinguishes the two marks. The goods to be used in connection with the LA KOLA REAL mark are identical to the goods sold under the KOLA REAL Marks, and upon information and belief, the goods will likely be sold through the same channels of trade to the same purchasers.

20. In accordance with the Pan American Convention, Opposer has priority over Applicant to register, and the preferential right to use, the KOLA REAL Marks in the United States.

21. Further, Opposer has complied with the requirements established by United States law and the Pan American Convention.

22. Opposer is therefore entitled to prevent the registration of Applicant's LA KOLA REAL mark.

WHEREFORE, Opposer Villa de Odon respectfully requests that Application Serial No. 85/266,973 in International Class 32 be rejected and that registration of the mark therein for the goods therein specified be refused.

Please charge the opposition fee to the Deposit Account of Fish & Richardson P.C., Account No. 06-1050, making reference to 28847-0009PP1.

Respectfully submitted,

Date: 2-22-2012

S. Peter Ludwig
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022
Telephone: (212) 765-5070
Facsimile: (212) 258-2291
tmdoctc@fr.com

ATTORNEY FOR VILLA DE ODON S.A.C.

**CERTIFICATE OF SERVICE**

The undersigned herby certifies that a true and complete copy of the foregoing Notice of Opposition has been served this 22nd day of February, 2012, by mailing said copy via First Class Mail, postage prepaid, to the below-identified Attorney at his place of business:

Mr. Raj Abhyanker, Esq.
Raj Abhyanker, P.C.
1580 W. El Camino Real, Suite 8
Mountain View, CA 94040-2462

Maryann White

# EXHIBIT A

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on** 2012-02-21 15:58:13 ET

**Serial Number:** 78510414 Assignment Information Trademark Document Retrieval

**Registration Number:**(NOT AVAILABLE)

**Mark**

KOLA REAL

**(words only):** KOLA REAL

**Standard Character claim:** Yes

**Current Status:** Abandoned because the applicant failed to respond or filed a late response to an Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Date of Status:** 2006-01-12

**Filing Date:** 2004-11-03

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 106

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** L6X -TMEG Law Office 106 - Examining Attorney Assigned

**Date In Location:** 2006-01-12

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Ananos Jeri, Jorge Rolando

**Address:**
Ananos Jeri, Jorge Rolando
Pan-American North KM.- 154
LIma
Peru
**Legal Entity Type:** Individual
**Country of Citizenship:** Peru

## GOODS AND/OR SERVICES

**International Class:** 032
**Class Status:** Active
Carbonated soft drinks
**Basis:** 1(a), 44(e)
**First Use Date:** 1988-00-00
**First Use in Commerce Date:** 1988-00-00

## ADDITIONAL INFORMATION

**Foreign Registration Number:** 005152
**Foreign Registration Date:** 1994-01-24
**Country:** Peru
**Foreign Expiration Date:** 2014-01-24

## MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

## PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2006-01-12 - Abandonment Notice Mailed - Failure To Respond

2006-01-12 - Abandonment - Failure To Respond Or Late Response

2005-07-15 - TEAS Change Of Correspondence Received

2005-07-14 - TEAS Change Of Correspondence Received

2005-07-05 - TEAS Change Of Correspondence Received

2005-06-16 - Non-final action e-mailed

2005-06-16 - Non-Final Action Written

2005-06-08 - Assigned To Examiner

2004-11-10 - New Application Entered In Tram

## ATTORNEY/CORRESPONDENT INFORMATION

**Attorney of Record**
Stevan Lieberman

**Correspondent**
Stevan Lieberman
Greenberg & Lieberman, LLC
Suite C-2
2141 Wisconsin Avenue, NW
Washington DC 20007
Phone Number: 202-625-7000
Fax Number: 202-625-7001

**Domestic Representative**
Stevan Lieberman
Phone Number: 301-588-8393
Fax Number: 301-588-3292

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on** 2012-02-21 15:59:52 ET

**Serial Number:** 78531467 Assignment Information Trademark Document Retrieval

**Registration Number:**(NOT AVAILABLE)

**Mark**


**(words only):** KR KOLA REAL

**Standard Character claim:** No

**Current Status:** Abandoned because the applicant failed to respond or filed a late response to an Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Date of Status:** 2006-01-12

**Filing Date:** 2004-12-13

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 106

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** L6X -TMEG Law Office 106 - Examining Attorney Assigned

**Date In Location:** 2006-01-12

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Ananos Jeri, Jorge Rolando

**Address:**
Ananos Jeri, Jorge Rolando
Pan-American North KM.- 154
Lima
Peru
**Legal Entity Type:** Individual
**Country of Citizenship:** Peru

## GOODS AND/OR SERVICES

**International Class:** 032
**Class Status:** Active
Carbonated soft drinks
**Basis:** 1(a), 44(e)
**First Use Date:** 1988-00-00
**First Use in Commerce Date:** 1988-00-00

## ADDITIONAL INFORMATION

**Description of Mark:** The mark consists of the stylized letters KR sitting on the top of a half of a slice of lemon with the word KOLA under the lemon slice and the word REAL under the word KOLA.

**Design Search Code(s):**
**01.15.08** - Raindrop (a single drop); Single drop (rain, tear, etc.); Teardrop (a single drop)
**05.09.04** - Lemons; Limes
**26.09.02** - Plain single line squares; Squares, plain single line
**26.09.20** - Squares inside one another
**26.09.21** - Squares that are completely or partially shaded

**Foreign Registration Number:** 005152
**Foreign Registration Date:** 1994-01-24
**Country:** Peru
**Foreign Expiration Date:** 2004-01-20

## MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

## PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2006-01-12 - Abandonment Notice Mailed - Failure To Respond

2006-01-12 - Abandonment - Failure To Respond Or Late Response

2005-07-15 - TEAS Change Of Correspondence Received

2005-07-14 - TEAS Change Of Correspondence Received

2005-07-05 - TEAS Change Of Correspondence Received

2005-06-16 - Non-final action e-mailed

2005-06-16 - Non-Final Action Written

2005-06-10 - Assigned To Examiner

2004-12-23 - New Application Entered In Tram

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## ATTORNEY/CORRESPONDENT INFORMATION

---

**Attorney of Record**
Stevan Lieberman

**Correspondent**
Stevan Lieberman
Greenberg & Lieberman, LLC
Suite C-2
2141 Wisconsin Avenue, NW
Washington DC 20007
Phone Number: 202-625-7000
Fax Number: 202-625-7001

**Domestic Representative**
Stevan Lieberman
Phone Number: 301-588-8393
Fax Number: 301-588-3293

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# EXHIBIT B

REPUBLIQUE D'HAITI

MINISTERE
DU COMMERCE
ET DE L 'INDUSTRIE

DIRECTION DES AFFAIRES JURIDIQUES
(Loi du 17 juillet 1954)

No : **18 Reg 148**
DUREE : **10 ans**
Renouvellement du No :
Date d'expiration : **19 août 2015**

No dépôt: **176-A**
Date de dépôt: **25 Janvier 2005**
Publiée au Moniteur No. **45**
En date du : **16 Juin 2005**

A TOUS CEUX QU'IL APPARTIENDRA

**Il est certifié qu'aux termes de la Loi sur les Marques Fabrique et de Commerce**

**Industrias San Miguel Del Caribe** société opérant selon les lois de la République Dominicaine, ayant son siège social à Carretera Santiago Rodriguez, République Dominicaine et ayant pour mandataire Me. Florence Débrosse Vaval, du Cabinet Hudicourt Woolley, a

**Présenté une demande d'enregistrement de la Marque :**

## Kola Real

**Cette Marque :** consiste dans la dénomination ci-dessus indépendamment des styles, couleurs, dimensions, caractères des mots qui la composent.

Elle s'applique aux boissons non alcoolisées et aux produits de la classe 32.

**Les formalités de la Loi ayant été remplies et aucune opposition n' ayant été reçue, la marque susmentionnée a été enregistrée au Ministère du Commerce et de l' Industrie le 19 août 2005.**

**Le présent enregistrement confère au déposant le droit exclusif de possession et d'usage de la marque. Toute imitation, contrefaçon ou falsification sera punie conformément à la Loi.**

**En vue de garder l'enregistrement en vigueur, le propriétaire de la marque devra soumettre au Ministère du Commerce et de l'Industrie une déclaration d'usage ou de non-usage au cours des trois premiers mois de la sixième année de l'enregistrement ou du renouvellement faute de quoi celle-ci sera considérée comme abandonnée. (Art. 6)**

**Le Service de la Propriété Industrielle**

REPUBLIC OF HAITI (stamp)

MINISTRY
OF COMMERCE
AND INDUSTRY

DIRECTION OF LEGAL AFFAIRS
(Law of July 17, 1954)

N°: 18 Reg 148
Term: 10 years
N° of Renewal:
Expiration date: August 19, 2015

Application N°: 176-A
Application date: January 25, 2005
Published at Monitor N° 45
Date: June 16, 2005

TO WHOM IT MAY CONCERN

This is to certify, according to the terms of the Trademark Act, that:

**Industrias San Miguel Del Caribe,** a company wich operates under the Law of Dominican Republic, with its head office in Carretera Santiago Rodriguez, Dominican Republic and having as authorized representative Mrs. Florence Debrosse Vaval, at Cabinet Hudicourt Wooley, has

filed a trademark application for:

## Kola Real

**This trademark:** consists of the denomination above mentioned, without claim of the styles, colors, dimensions, characteristics of the words contained.

It requested non alcoholic beverages and products of the class 32.

The formalities of the Law have been fulfilled and no objections have been presented. The trademark above mentioned was registered at the Ministry of Commerce and Industry, on August 19, 2005.

This certificate gives the holder the exclusive right of possession and use of the trademark. All type of imitation, counterfeiting or falsification will be punished according to Law.

In order to maintain the registration into force, the holder of the trademark should submit to the Ministry of Commerce and Industry a declaration of use or non-use during the first three months of the sixth year of registration or the renewal done; otherwise, it will be considered as abandoned. (Art. 6)

Signature
Department of Industrial Property
(stamp)

# EXHIBIT C

# DEED OF ASSIGNMENT

**THIS ASSIGNMENT** made the 3rd day of February 2011.

**BETWEEN** INDUSTRIAS SAN MIGUEL DEL CARIBE located at Dominican Republic, (hereinafter called "the Assignor") of the one part,

**AND** VILLA DE ODON S.A.C., located at Lima, Peru (hereinafter called the "Assignee) of the other part

**WITNESSETH** that in the consideration of the sum of Five United States Dollars (US$5.00) paid by the Assignee to the Assignor on or before the execution of these, the Assignor, as beneficial owner, **HEREBY ASSIGNS** unto the Assignee **ALL THOSE** trade marks registered in Haiti, particulars of which are set out in the Schedule A attached hereto with the goodwill of the business in Haiti concerned in the goods for which the said trade marks are registered, and **TO HOLD** the same unto the Assignee absolutely.

**IN WITNESS** whereof the Assignor and the Assignee have executed these presents the day and year first above written.

**THUS DONE** and **SIGNED** at Peru this 3rd day of February 2011.

For and on behalf of (Assignor)

**INDUSTRIAS SAN MIGUEL DEL CARIBE**
Name: Arturo Marroquín Alcázar
Title: General Manager

For and on behalf of (Assignee)

Cintya Nataly Añaños Alcazar
Apoderada
VILLA DE ODÓN S.A.C.

**VILLA DE ODON S.A.C.**
Name: Cintya Nataly Añaños Alcázar
Title: Legal Representative

(Notarization and Legalization Required)

CERTIFICO: QUE LA FIRMA QUE ANTECEDE CORRESPONDE A DOÑA CINTYA NATALY AÑAÑOS ALCAZAR, IDENTIFICADA CON DNI 43057755, QUIEN FIRMA EN REPRESENTACIÓN DE VILLA DE ODON S.A.C.; FIRMA QUE LEGALIZO, SIN RESPONSABILIDAD SOBRE EL CONTENIDO DEL DOCUMENTO.- LIMA, 12 DE FEBRERO DE 2011.

COLEGIO DE NOTARIOS DE LIMA

Ricardo Fernandini Barreda
Notario de Lima

EL PRESIDENTE DE LA JUNTA DE DECANOS DE LOS COLEGIOS DE NOTARIOS DEL PERÚ, CERTIFICA: QUE LA FIRMA Y SELLOS QUE APARECEN EN ESTA FOJA CORRESPONDE(N) A(AL) NOTARIO(A) DE Lima: Ricardo Fernandini Barreda EN ACTUAL EJERCICIO

S/F 033532

LIMA, 14 DE Febrero DE 2011

FRANCISCO JAVIER VILLAVICENCIO CARDENAS

Ambassade D'Haïti
en République Dominicaine

Vu pour la légalisation de la signature de M. Marco A. Hinojosa Arenas, Chef de la Section Consulaire de l'Ambassade du Pérou

Registre No. 0030-11 Reçu No. Exonéré

Fait à Santo Domingo le 20 Juin 201

Philippe Archer
Conseiller
Chargé des Affaires Consulaires

AMBASSADE DE LA REPUBLIQUE D'HAITI
SECTION CONSULAIRE
SANTO DOMINGO, R.D.

MINISTERIO DE RELACIONES EXTERIORES
DIRECCIÓN GENERAL DE POLÍTICA CONSULAR
Legalización Nº 20 6436
Se legalisa la firma que antecede del Sr(a)
Francisco Villavicencio
SIN JUZGAR EL CONTENIDO DEL DOCUMENTO

Julia Adela Moreno de Dueñas
Superintendente de Legalizaciones
Dirección de Trámites Consulares

Nº de Partida 21
No. de Orden 1183/07
Derechos S/. 20.00

LIMA 15 FEB. 2011

EMBAJADA DEL PERU (Rep. Dom.)
Sección Consular
Legalizada la firma de Julia Adela Moreno de Dueñas
Que desempeña las funciones de Superintendente de Trámites Consulares de Cancillería Peruana, Lima-Perú
(SE LEGALIZA LA FIRMA, MAS NO EL CONTENIDO DEL PRESENTE DOCUMENTO)
Santo Domingo, 17/mayo/2011

EMBAJADA DEL PERU
SECCION CONSULAR
República Dominicana

Marco A. Hinojosa Arenas
JEFE DE LA SECCION CONSULAR

SCHEDULE A

| Trade Mark | Application/Registration No. | Class |
|---|---|---|
| KOLA REAL | 176-A / 18 Reg 148 | 32 |
| TOP COLA | 47-A / 1 Reg 148 | 32 |
| COOL HEAVEN & design | 216-D / 231 Reg-162 | 32 |

H AITÉ

# EXHIBIT D

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on** 2012-02-21 16:07:10 ET

**Serial Number:** 85544193 Assignment Information Trademark Document Retrieval

**Registration Number:**(NOT AVAILABLE)

**Mark**

KOLA REAL

**(words only):** KOLA REAL

**Standard Character claim:** Yes

**Current Status:** New application will be assigned to an examining attorney approximately 3 months after filing date.

**Date of Status:** 2012-02-20

**Filing Date:** 2012-02-16

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 042 -New Application Processing

**Date In Location:** 2012-02-20

## LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VILLA DE ODON S.A.C.

**Address:**
VILLA DE ODON S.A.C.
Av. La Encalada 197, interior "B" Santiago de Surco
Lima
Peru
**Legal Entity Type:** Corporation
**State or Country of Incorporation:** Peru

## GOODS AND/OR SERVICES

**International Class:** 032
**Class Status:** Active
Non-alcoholic beverages, namely, carbonated beverages
**Basis:** 1(b)
**First Use Date:** (DATE NOT AVAILABLE)
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

## ADDITIONAL INFORMATION

(NOT AVAILABLE)

## MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

## PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2012-02-20 - New Application Entered In Tram

## ATTORNEY/CORRESPONDENT INFORMATION

**Attorney of Record**
Erin M. Hickey, S. Peter Ludwig

**Correspondent**
ERIN M. HICKEY, S. PETER LUDWIG

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022
Phone Number: 212-765-5070
Fax Number: 877-769-7945

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on** 2012-02-21 16:08:02 ET

**Serial Number:** 85544196 Assignment Information Trademark Document Retrieval

**Registration Number:**(NOT AVAILABLE)

**Mark**


**(words only):** KR KOLA REAL

**Standard Character claim:** No

**Current Status:** New application will be assigned to an examining attorney approximately 3 months after filing date.

**Date of Status:** 2012-02-20

**Filing Date:** 2012-02-16

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 042 -New Application Processing

**Date In Location:** 2012-02-20

## LAST APPLICANT(S)/OWNER(S) OF RECORD

1. VILLA DE ODON S.A.C.

**Address:**
VILLA DE ODON S.A.C.
Av. La Encalada 197, interior "B" Santiago de Surco
Lima
Peru
**Legal Entity Type:** Corporation
**State or Country of Incorporation:** Peru

## GOODS AND/OR SERVICES

**International Class:** 032
**Class Status:** Active
Non-alcoholic beverages, namely, carbonated beverages
**Basis:** 1(b)
**First Use Date:** (DATE NOT AVAILABLE)
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

## ADDITIONAL INFORMATION

**Color(s) Claimed:** The color(s) red, green, yellow and white is/are claimed as a feature of the mark.

**Description of Mark:** The mark consists of a red swirl background with red droplets, superimposed over the red background appear the letters "K", "R" in green surrounded by a white border, in between the letters "K" and "R" appears a yellow drop beneath which appears a depiction of a yellow half sun circle. The words KOLA REAL in white on the green background are beneath the letters "K" and "R".

## MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

## PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2012-02-20 - New Application Entered In Tram

## ATTORNEY/CORRESPONDENT INFORMATION

**Attorney of Record**
Erin M. Hickey, S. Peter Ludwig

**Correspondent**
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# EXHIBIT E

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on** 2012-02-21 16:09:43 ET

**Serial Number:** 85266973 Assignment Information Trademark Document Retrieval

**Registration Number:**(NOT AVAILABLE)

**Mark**

LA KOLA REAL

**(words only):** LA KOLA REAL

**Standard Character claim:** Yes

**Current Status:** A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

**Date of Status:** 2011-11-23

**Filing Date:** 2011-03-15

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 105

**Attorney Assigned:**
JENKINS JR CHARLES L

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2011-09-21

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

1. Genere Food Corp

**Address:**
Genere Food Corp
100 Niantic Av
Providence, RI 02907
United States
**Legal Entity Type:** Corporation
**State or Country of Incorporation:** Rhode Island

## GOODS AND/OR SERVICES

**International Class:** 032
**Class Status:** Active
Non-alcoholic fruit juice beverages; Non-alcoholic beverages, namely, carbonated beverages; Bottled water; Mineral water; Vegetable juices
**Basis:** 1(b)
**First Use Date:** (DATE NOT AVAILABLE)
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

## ADDITIONAL INFORMATION

**Disclaimer:** "COLA"

**Translation:** The English translation of the word "la" in the mark is "the".

## MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

## PROSECUTION HISTORY

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2011-11-23 - Extension Of Time To Oppose Received

2011-10-25 - Official Gazette Publication Confirmation E-Mailed

2011-10-25 - Published for opposition

2011-09-21 - Law Office Publication Review Completed

2011-09-20 - Assigned To LIE

2011-09-06 - Approved For Pub - Principal Register

2011-08-19 - Teas/Email Correspondence Entered

2011-08-19 - Communication received from applicant

2011-08-19 - TEAS Response to Office Action Received

2011-06-20 - Notification Of Non-Final Action E-Mailed

2011-06-20 - Non-final action e-mailed

2011-06-20 - Non-Final Action Written

2011-06-14 - Assigned To Examiner

2011-03-19 - Notice Of Pseudo Mark Mailed

2011-03-18 - New Application Office Supplied Data Entered In Tram

2011-03-18 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**
Raj Abhyanker

**Correspondent**
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RAJ ABHYANKER, P.C.
1580 W EL CAMINO REAL STE 8
MOUNTAIN VIEW, CA 94040-2462
Phone Number: 650 965-8731
Fax Number: 650 989-2131

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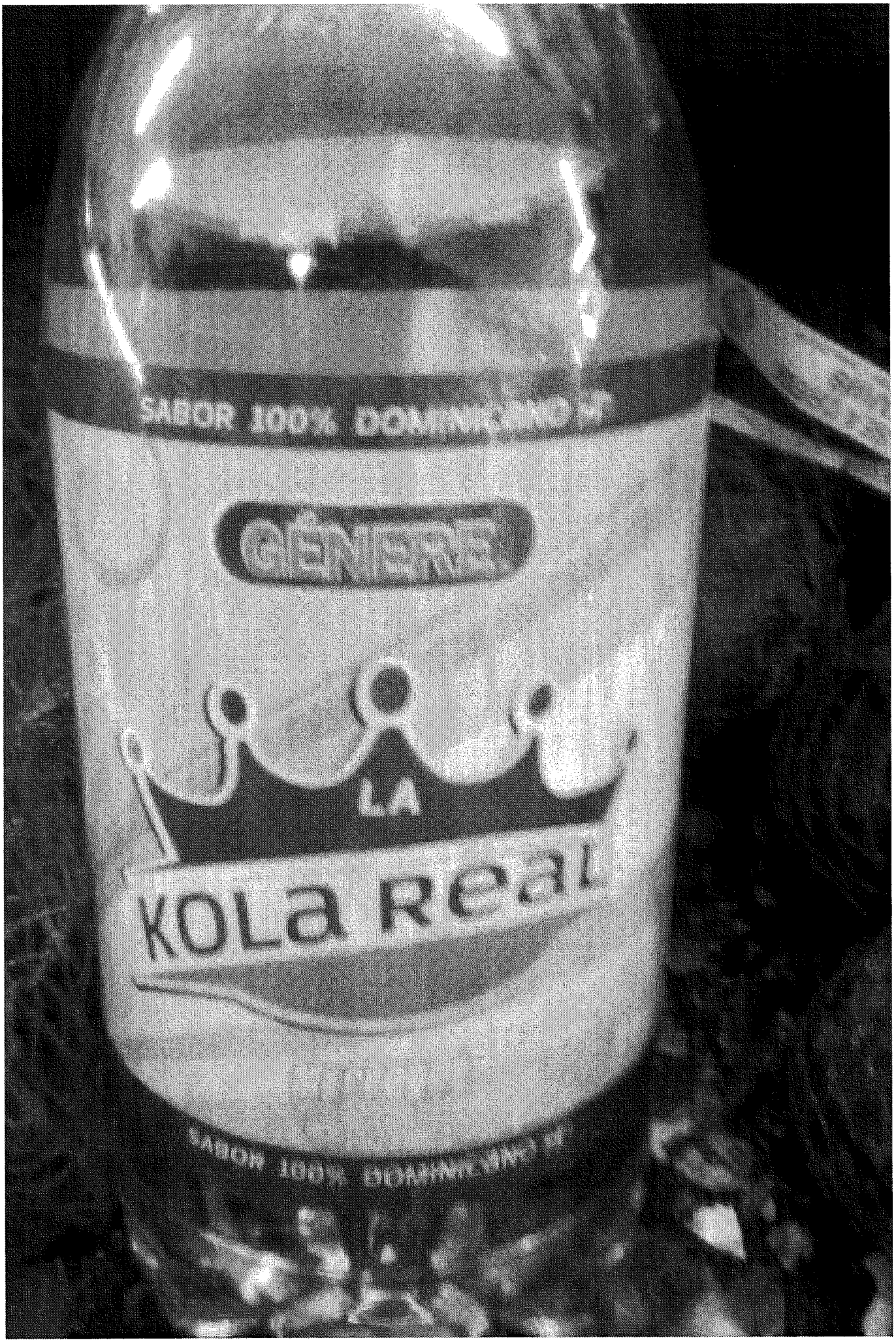
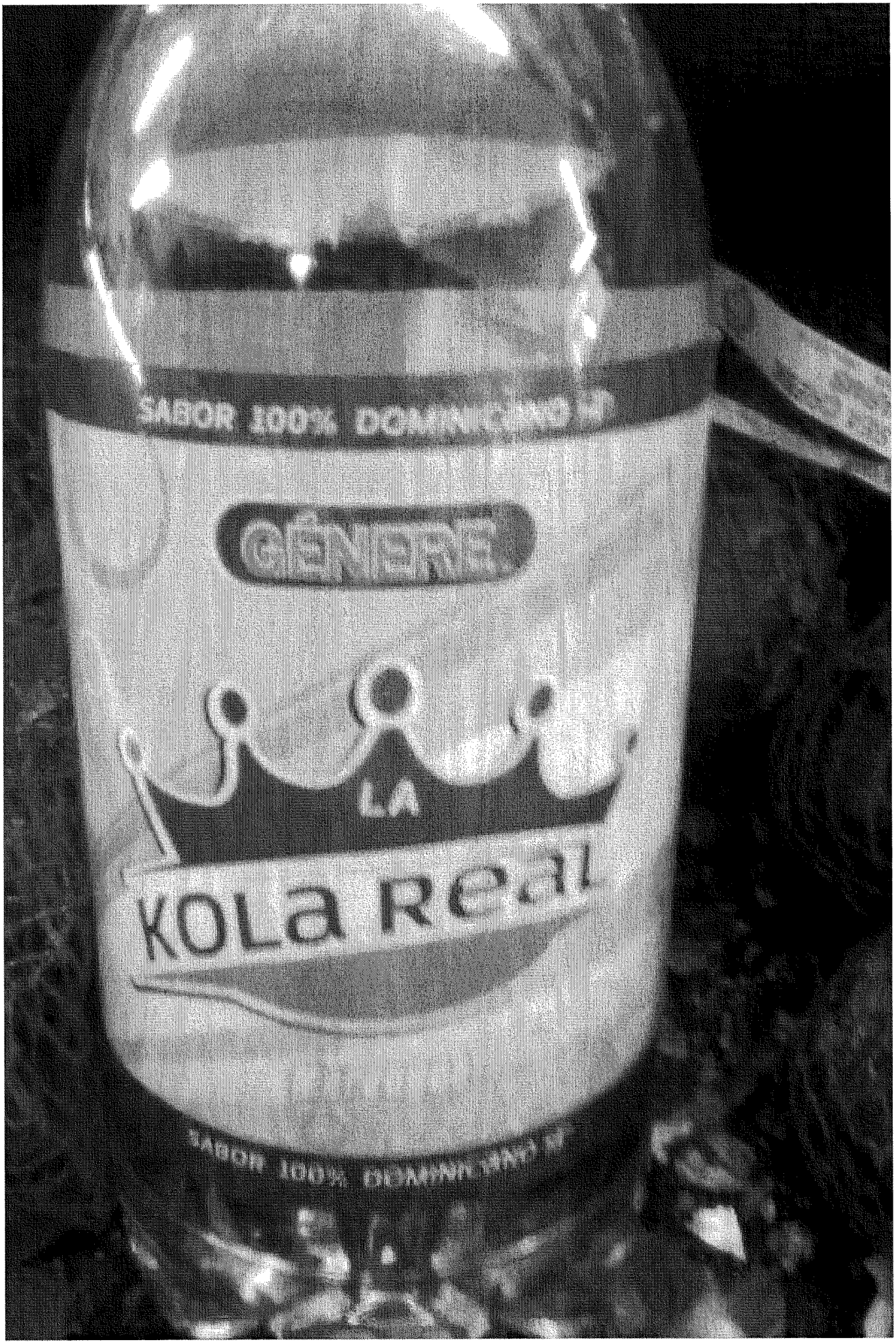
# EXHIBIT F


SABOR 100% DOMINICANO
GENERAL
LA
KOLA Real


SABOR 100% DOMINICANO
GÉNERE
KOLA Real


Nutrition Facts
% Daily Value*